

First Regular Session 116th General Assembly (2009)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2008 Regular Session of the General Assembly.

## HOUSE ENROLLED ACT No. 1546

AN ACT to amend the Indiana Code concerning pensions.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 5-10.2-3-6.5, AS ADDED BY P.L.115-2008, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 6.5. (a) This section applies:

- (1) after December 31, 2008, to a member of the public employees' retirement fund; **and**
- (2) **after June 30, 2009, to a member of the Indiana state teachers' retirement fund.**

(b) A member who meets all of the following requirements may elect to withdraw the entire amount in the member's annuity savings account before the member is eligible to do so at retirement under IC 5-10.2-4-2:

- (1) The member has attained vested status in the fund.
- (2) The member terminates employment **with the applicable fund after the date specified in subsection (a).**
- (3) The member has not performed any service in a position covered by the fund for at least ninety (90) days after the date the member terminates employment.

(c) A member who elects to withdraw the entire amount in the member's annuity savings account under subsection (b) shall provide notice of the election on a form provided by the board.

(d) The election to withdraw the entire amount in the member's

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annuity savings account is irrevocable.

(e) The board shall pay the amount in the member's annuity savings account as a lump sum.

(f) Except as provided in subsection (g), a member who makes a withdrawal under this section is entitled to receive, when the member becomes eligible to receive a retirement benefit under IC 5-10.2-4, a retirement benefit equal to the pension provided by employer contributions computed under IC 5-10.2-4.

(g) A member who:

(1) transfers creditable service earned under the fund to another governmental retirement plan under section 1(i) of this chapter; and

(2) withdraws the member's annuity savings account under this section to purchase the service;

may not use the transferred service in the computation of a retirement benefit payable under subsection (f).

SECTION 2. IC 5-10.2-3-7.5, AS AMENDED BY P.L.99-2007, SECTION 15, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7.5. (a) A surviving dependent or surviving spouse of a member who dies in service is entitled to a survivor benefit if:

(1) the member dies after March 31, 1990;

(2) the member has:

(A) at least ten (10) years of creditable service, if the member died in service as a member of the general assembly;

(B) at least fifteen (15) years of creditable service, if the member died in service in any other position covered by the retirement fund; or

(C) at least ten (10) years but not more than fourteen (14) years of creditable service if the member:

(i) was at least sixty-five (65) years of age; and

(ii) died in service in a position covered by the teachers' retirement fund; and

(3) the surviving dependent or surviving spouse qualifies for a survivor benefit under subsection (b) or (c).

(b) If a member described in subsection (a) dies with a surviving spouse who was married to the member for at least two (2) years, the surviving spouse is entitled to a survivor benefit equal to the monthly **pension** benefit that would have been payable to the spouse under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

(1) fifty (50) years of age; or

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(2) the actual date of death;  
whichever is later. However, benefits payable under this subsection are subject to subsections (e) and (g).

(c) If a member described in subsection (a) dies without a surviving spouse who was married to the member for at least two (2) years, but with a surviving dependent, the surviving dependent is entitled to a survivor benefit in a monthly amount equal to the actuarial equivalent of the monthly **pension** benefit that would have been payable to the spouse (assuming the spouse would have had the same birth date as the member) under the joint and survivor option of IC 5-10.2-4-7 upon the member's death following retirement at:

- (1) fifty (50) years of age; or
- (2) the actual date of death;

whichever is later. If there are two (2) or more surviving dependents, the actuarial equivalent of the benefit described in this subsection shall be calculated and, considering the dependents' attained ages, an equal dollar amount shall be determined as the monthly **pension** benefit to be paid to each dependent. Monthly **pension** benefits under this subsection are payable until the date the dependent becomes eighteen (18) years of age or dies, whichever is earlier. However, if a dependent has a permanent and total disability (using disability guidelines established by the Social Security Administration) at the date the dependent reaches eighteen (18) years of age, the monthly **pension** benefit is payable until the date the dependent no longer has a disability (using disability guidelines established by the Social Security Administration) or dies, whichever is earlier. Benefits payable under this subsection are subject to subsections (e) and (g).

(d) **This subsection applies if a member did not designate a beneficiary or the designated beneficiary does not survive the member.** Except as provided in subsections (e) and (h), the surviving spouse or surviving dependent of a member who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter may elect to receive a lump sum payment of the total amount credited to the member in the member's annuity savings account or an amount equal to the member's federal income tax basis in the member's annuity savings account as of December 31, 1986. A surviving spouse or surviving dependent who makes such an election is not entitled to an annuity as part of the survivor benefit under subsection (b) or (c) or section 7.6 of this chapter to the extent of the lump sum payment.

(e) If a member described in subsection (a) or section 7.6(a) of this chapter is survived by a designated beneficiary, who is not a surviving spouse or surviving dependent entitled to a survivor benefit under

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~~subsection (b) or (c) or section 7.6 of this chapter~~, the following provisions apply:

(1) If the member is survived by one (1) designated beneficiary, the designated beneficiary is entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(2) If the member is survived by two (2) or more designated beneficiaries, the designated beneficiaries are entitled to receive in a lump sum or over a period of up to five (5) years, as elected by the designated beneficiary, equal shares of the amount credited to the member's annuity savings account, less any disability benefits paid to the member.

(3) If the member is also survived by a spouse or dependent who is entitled to a survivor benefit under subsection (b) or (c) or section 7.6 of this chapter, the surviving spouse or dependent is not entitled to an annuity or a lump sum payment as part of the survivor benefit, unless the surviving spouse or dependent is also a designated beneficiary.

(f) If a member dies:

(1) without a surviving spouse or surviving dependent who qualifies for survivor benefits under subsection (b) or (c) or section 7.6 of this chapter; and

(2) without a surviving designated beneficiary who is entitled to receive the member's annuity savings account under subsection (e);

the amount credited to the member's annuity savings account, less any disability benefits paid to the member, shall be paid to the member's estate.

(g) Survivor benefits payable under this section or section 7.6 of this chapter shall be reduced by any disability benefits paid to the member.

(h) Additional annuity contributions, if any, shall not be included in determining survivor benefits under subsection (b) or (c) or section 7.6 of this chapter, but are payable in a lump sum payment to:

(1) the member's surviving designated beneficiary; or

(2) the member's estate, if there is no surviving designated beneficiary.

(i) Survivor benefits provided under this section or section 7.6 of this chapter are subject to IC 5-10.2-2-1.5.

(j) A benefit specified in this section shall be forfeited and credited to the member's retirement fund if no person entitled to the benefit claims it within three (3) years after the member's death. However, the

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board may honor a claim that is made more than three (3) years after the member's death if the board finds, in the board's discretion, that:

- (1) the delay in making the claim was reasonable or other extenuating circumstances justify the award of the benefit to the claimant; and
- (2) paying the claim would not cause a violation of the applicable Internal Revenue Service rules.

SECTION 3. IC 5-10.2-4-1.2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.2. ~~The public employees' retirement~~ **(a) Each** fund shall adopt a policy that

- ~~(1) promotes~~ **requires** direct deposit ~~or another method approved by the board~~ as the preferred way for members and beneficiaries to receive monthly benefits. ~~and~~
- ~~(2) strongly encourages members and beneficiaries who apply for benefits to receive their monthly benefits by direct deposit.~~

**(b) A member or beneficiary who does not wish to have payments to the person deposited by direct deposit or another method approved by the board under subsection (a) may request the board or a designee of the board to grant a waiver of the requirement of direct deposit or another method approved by the board. The member or beneficiary must:**

- (1) state the reason to the board for requesting the waiver; and**
- (2) sign a waiver form.**

**(c) The board or a designee of the board shall grant the member's or beneficiary's request for a waiver, approval of which shall not be unreasonably denied, if any of the following apply:**

- (1) The member or beneficiary currently does not have a savings or checking account.**
- (2) The member or beneficiary is unable to establish a savings or checking account within the geographic area of the home of the member or beneficiary without payment of a service fee. In support of this reason, the member or beneficiary must submit a written statement of the inability to establish the account without the payment of a fee with the waiver request.**
- (3) The home of the member or beneficiary is too remote to have access to a financial institution where direct deposit or another method approved by the board may be made.**
- (4) The financial institution of the member or beneficiary is unable to:**
  - (A) accept direct deposit or another method approved by the board; or**

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**(B) process electronic withdrawal.**

The member or beneficiary must submit with the waiver a written statement from the financial institution of the member or beneficiary that the financial institution is unable to accept direct deposit or another method approved by the board or process electronic withdrawal.

(5) The board determines that the facts of the particular case warrant a waiver of the requirement of direct deposit or another method approved by the board.

(d) The policy of the board must provide that a member or beneficiary who is in pay status as of July 1, 2009, and is receiving monthly benefits in a manner other than direct deposit or another method approved by the board shall not have the monthly benefits stopped for receiving monthly benefits in a manner other than direct deposit or another method approved by the board.

SECTION 4. IC 5-10.2-4-1.4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.4. (a) This section applies to a member or a beneficiary of the ~~public employees'~~ retirement fund who receives a monthly benefit by direct deposit.

(b) The fund shall furnish to the member or beneficiary:

- (1) before each change in the amount of the member's or beneficiary's benefit; or
- (2) once every twelve (12) months, if the member's or beneficiary's benefit amount does not change;

a written notice showing the member's or beneficiary's benefit amount, including any cost of living increase or other adjustment to the benefit amount, and a summary of the member's or beneficiary's benefit payment history since the member's or beneficiary's last written notice.

SECTION 5. IC 5-10.2-4-1.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 1.5. (a) A fund may calculate and pay an estimated retirement benefit of the pension portion to a member if:

- (1) the member has applied for a retirement benefit and has chosen a retirement date on which the retirement benefit is to begin;
- (2) the member's membership records are incomplete or have not been certified; and
- (3) the member's membership records that have been submitted to the fund establish that the member is entitled to a retirement benefit.

(b) ~~After June 30, 2009, if a fund may calculate~~ **calculates and pays** an estimated benefit under this section, ~~based on the estimated~~

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**benefit must be at least** eighty-five percent (85%) of the pension portion of the benefit determined under the fund's records on service and compensation information.

(c) If an estimated benefit is paid to a member under this section, the fund shall, after all membership records have been submitted to the fund and certified, determine the actual retirement benefit to which the member is entitled. After determining the actual retirement benefit to which the member is entitled, the fund shall temporarily adjust the actual retirement benefit that is paid to the member to reconcile any underpayment or overpayment of benefits to the member that resulted from the payment of estimated benefits. The fund may make the temporary adjustment to the member's actual retirement benefit over a reasonable time, as determined by the board.

SECTION 6. IC 5-10.2-4-2, AS AMENDED BY P.L.115-2008, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2010]: Sec. 2. (a) Unless a member elects otherwise under this section or has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the retirement benefit for each member consists of the sum of a pension provided by employer contributions plus an annuity provided by the amount credited to the member in the annuity savings account. If a member has elected to withdraw the member's annuity savings account under IC 5-10.2-3-6.5, the member's retirement benefit is equal to the pension provided by employer contributions, unless the member has transferred the creditable service earned under the public employees' retirement fund to another governmental retirement plan under IC 5-10.2-3-1(i). **Regardless of a member's election under this section, contributions totaling not more than one thousand dollars (\$1,000) that are posted to a member's annuity savings account after the final date on which the member's retirement benefit is processed may be distributed to the member as a lump sum payment.**

(b) If a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose at retirement or upon a disability retirement to receive a distribution of:

- (1) the entire amount credited to the member in the annuity savings account; or
- (2) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (1), the member is not entitled to an annuity as part of the retirement or

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disability benefit. If the member chooses to receive the distribution under subdivision (2), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2).

(c) Instead of choosing to receive the benefits described in subsection (a) or (b), if a member has not elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5, a member may choose upon retirement or upon disability retirement to begin receiving a pension provided by employer contributions and to defer receiving in any form the member's annuity savings account. If a member chooses this option, the member:

(1) is not entitled to an annuity as part of the member's retirement or disability benefit, and the member's annuity savings account will continue to be invested according to the member's direction under IC 5-10.2-2-3; and

(2) may later choose, as of the first day of a month, or an alternate date established by the rules of each board, to receive a distribution of:

(A) the entire amount credited to the member in the annuity savings account; or

(B) an amount equal to the member's federal income tax basis in the member's annuity savings account balance as it existed on December 31, 1986.

If the member chooses to receive the distribution under subdivision (2)(A), the member is not entitled to an annuity as part of the member's retirement or disability benefit. If the member chooses to receive the distribution under subdivision (2)(B), the member is entitled to an annuity purchasable by the amount remaining in the member's annuity savings account after the payment under subdivision (2)(B). If the member does not choose to receive a distribution under this subsection, the member is entitled to an annuity purchasable by the entire amount in the member's annuity savings account, and the form of the annuity shall be as described in subsection (d) unless the member elects an option described in section 7(b)(1), 7(b)(2), or 7(b)(4) of this chapter. The amount to be paid under this section shall be determined in the manner described in IC 5-10.2-2-3. ~~except that it shall be determined as of the last day of the quarter preceding the member's actual distribution or annuitization date.~~ However, each board may by rule provide for an alternate valuation date.

(d) Retirement benefits must be distributed in a manner that complies with Section 401(a)(9) of the Internal Revenue Code, as specified in IC 5-10.2-2-1.5.

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SECTION 7. IC 5-10.2-4-7, AS AMENDED BY P.L.115-2008, SECTION 13, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. (a) Benefits provided under this section are subject to IC 5-10.2-2-1.5.

(b) A member who retires is entitled to receive monthly retirement benefits, which are guaranteed for five (5) years or until the member's death, whichever is later. A member may select in writing any of the following nonconflicting options for the payment of the member's retirement benefits instead of the five (5) year guaranteed retirement benefit payments. The amount of the optional payments shall be determined under rules of the board and shall be the actuarial equivalent of the benefit payable under sections 4, 5, and 6 of this chapter. A member who has elected to withdraw the entire amount in the member's annuity savings account under IC 5-10.2-3-6.5 may not select the cash refund annuity option.

(1) Joint and Survivor Option.

(A) The member receives a decreased retirement benefit during the member's lifetime, and there is a benefit payable after the member's death to a designated beneficiary during the lifetime of the beneficiary, which benefit equals, at the option of the member, either the full decreased retirement benefit or two-thirds (2/3) or one-half (1/2) of that benefit.

(B) If the member dies before retirement, the designated beneficiary may receive only the amount credited to the member in the annuity savings account unless the designated beneficiary is entitled to survivor benefits under IC 5-10.2-3.

(C) If the designated beneficiary dies before the member retires, the selection is automatically canceled and the member may make a new beneficiary election and may elect a different form of benefit under this subsection.

(2) Benefit with No Guarantee. The member receives an increased lifetime retirement benefit without the five (5) year guarantee specified in this subsection.

(3) Integration with Social Security. If the member retires before the age of eligibility for Social Security benefits, in order to provide a level benefit during the member's retirement the member receives an increased retirement benefit until the age of Social Security eligibility and decreased retirement benefits after that age.

(4) Cash Refund Annuity. The member receives a lifetime annuity purchasable by the amount credited to the member in the annuity savings account, and the member's designated beneficiary

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receives a refund payment equal to:

- (A) the total amount used in computing the annuity at the retirement date; minus
- (B) the total annuity payments paid and due to the member before the member's death.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund after June 30, 2007, or to a member of the public employees' retirement fund after June 30, 2008. If:

- (1) the designated beneficiary dies while the member is receiving benefits; or
- (2) the member is receiving benefits, the member marries, either for the first time or following the death of the member's spouse, after the member's first benefit payment is made, and the member's designated beneficiary is not the member's current spouse or the member has not designated a beneficiary;

the member may elect to change the member's designated beneficiary or form of benefit under subsection (b) and to receive an actuarially adjusted and recalculated benefit for the remainder of the member's life or for the remainder of the member's life and the life of the newly designated beneficiary. The member may not elect to change to a five (5) year guaranteed form of benefit. If the member's new election is the joint and survivor option, the member shall indicate whether the designated beneficiary's benefit shall equal, at the option of the member, either the member's full recalculated retirement benefit or two-thirds ( $\frac{2}{3}$ ) or one-half ( $\frac{1}{2}$ ) of this benefit. The cost of recalculating the benefit shall be borne by the member and shall be included in the actuarial adjustment.

(d) Except as provided in subsection (c) or section 7.2 of this chapter, a member who files for regular or disability retirement may not change:

- (1) the member's retirement option under subsection (b);
- (2) the selection of a lump sum payment under section 2 of this chapter; or
- (3) the beneficiary designated on the member's application for benefits if the member selects the joint and survivor option under subsection (b)(1);

after the first day of the month in which benefit payments are scheduled to begin. For purposes of this subsection, it is immaterial whether a benefit check has been sent, received, or negotiated.

(e) A member may direct that the member's retirement benefits be paid to a revocable trust that permits the member unrestricted access to the amounts held in the revocable trust. The member's direction is

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not an assignment or transfer of benefits under IC 5-10.3-8-10 or IC 5-10.4-5-14.

**(f) Each board may adopt a policy to permit annual payment of a member's retirement benefit whenever the amount of the monthly retirement benefit to be paid to the member is not more than five dollars (\$5).**

SECTION 8. IC 5-10.2-4-8, AS AMENDED BY P.L.130-2008, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) **Subject to subsection (f)**, if a member who is receiving retirement benefits becomes reemployed in a position covered by this article more than thirty (30) days after the member's retirement, the member's retirement benefit payments continue. Except for a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund, the member shall begin making contributions as required in IC 5-10.2-3-2, and the member's employer shall make contributions throughout the member's period of reemployment.

(b) If a member who is receiving retirement benefits is reemployed in a position covered by this article not more than thirty (30) days after the member's retirement, the member's retirement benefits shall stop, the member shall begin making contributions as required by IC 5-10.2-3-2, and employer contributions shall be made throughout the period of reemployment.

(c) This subsection does not apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund. If a retired member is reemployed in a position covered by this article, section 10 of this chapter applies to the member upon the member's retirement from reemployment.

(d) **Subject to subsection (f)**, the following apply to a member of the Indiana state teachers' retirement fund who is reemployed more than thirty (30) days after the member's retirement in a position covered by the Indiana state teachers' retirement fund:

- (1) The member's retirement benefit payments continue during the member's period of reemployment without regard to the amount of the member's earnings from the covered position.
- (2) The member may not make contributions under IC 5-10.2-3-2 or IC 5-10.4-4-11 during the member's period of reemployment.
- (3) The member's employer may not make contributions under IC 5-10.2-2-11 or IC 5-10.4-4-11 for or on behalf of the member during the member's period of reemployment.

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(4) The member does not earn creditable service under IC 5-10.2-3-1 for the member's period of reemployment.

(5) The member is not entitled to an additional benefit under sections 9 and 10 of this chapter for the member's period of reemployment.

(e) The thirty (30) day period provided for in this section may be implemented unless the board of trustees of the fund receives a determination from the Internal Revenue Service prohibiting the implementation.

**(f) After July 31, 2009, if, on or before the date the member files an application for retirement benefits under this article, a member has a formal or informal agreement with an employer covered by this article to become reemployed in a position covered by this article after the member's retirement, regardless of the time frame between the member's retirement and the member's reemployment, the member's application for retirement benefits is void, and the following apply to the member's continued employment:**

**(1) If a member has received a retirement benefit:**

**(A) the member's retirement benefit shall stop; and**

**(B) the member shall repay the amount of the retirement benefit received.**

**(2) The member shall make contributions as required by IC 5-10.2-3-2 throughout the period of the member's continued employment.**

**(3) Employer contributions shall be made throughout the period of the member's continued employment.**

**(4) The member shall earn creditable service under IC 5-10.2-3-1 for the member's continued employment.**

**(5) When the period of the member's continued employment terminates, the member may again file an application for retirement benefits under this chapter.**

SECTION 9. IC 5-10.3-3-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The director is the executive officer in charge of the administration of the fund's detailed affairs.

(b) The director shall:

**(1) maintain a record of the board's proceedings;**

**(2) be responsible for the safekeeping of the books and records of the funds administered by the board;**

**(+)(3) receipt for payments made to the fund funds administered by the board and deposit them these payments with the treasurer**

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- ~~of state or a~~ custodian for the fund's account;
- ~~(2)~~ **(4)** sign vouchers for the payment of money from the ~~fund~~ **funds administered by the board** as authorized by the board;
- ~~(3)~~ perform other duties assigned by the board; and
- ~~(4)~~ **(5)** execute a corporate surety bond in an amount specified by the board, the premium on the bond to be paid by the board; and
- (6) perform other duties assigned by the board.**

SECTION 10. IC 5-10.3-5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 4. (a) Securities shall be held for the fund by banks or trust companies under a custodial agreement. Income, interest, proceeds of sale, materials, redemptions, and all other receipts from securities and other investments which the board retains for the cash working balance shall be deposited ~~with the treasurer of state~~ **as authorized by the board.**

(b) The board may contract with investment counsel, trust companies, or banks to assist the board in its investment program.

SECTION 11. IC 5-10.3-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 7. ~~Collection of Payments.~~ **(a)** If the employer or political subdivision fails to make payments required by this chapter, the amount payable may be:

- (1)** withheld by the auditor of state from moneys payable to the employer or subdivision and transferred to the fund; or
- (2)** recovered in a suit in the circuit or superior court of the county in which the political subdivision is located. ~~which~~ **The** suit shall be an action by the state on the relation of the board, prosecuted by the attorney general.

**(b) If:**

- (1) service credit is verified for a member who has filed an application for retirement benefits; and**
- (2) the member's employer at the time the service credit was earned has not made contributions for or on behalf of the member for the service credit;**

**liability for the unfunded service credit shall be charged against the employer's account and collected by the fund as provided in subsection (a). Processing of a member's application for retirement benefits may not be delayed by an employer's failure to make contributions for the service credit earned by the member while the member was employed by the employer.**

**(c)** If the employer or political subdivision fails to file the reports or records required by this chapter or by IC 5-10.3-7-12.5, the auditor of state shall:

- (1)** withhold the penalty described in IC 5-10.3-7-12.5 from

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money payable to the employer or the political subdivision; and ~~shall~~

(2) transfer the penalty to the fund.

SECTION 12. IC 5-10.3-8-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. ~~Payment of the Retirement Benefit. Except as provided under IC 5-10.2-4-7(f),~~ the retirement benefit is payable in equal monthly installments. The benefit may not be increased, decreased, revoked or repealed except for error or by action of the general assembly.

SECTION 13. IC 5-10.4-3-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The board is responsible for the fund's property. The board may take and hold any property given outright or on condition to the fund and shall perform the conditions accepted. Unless restricted by a condition, the board may transfer the property when necessary for the fund's benefit.

(b) The board shall receipt:

(1) property belonging to or coming into the fund and shall judiciously invest the property; and

(2) money coming into the fund and, except as specified in sections 13 and 14 of this chapter, shall deposit the money ~~with the state treasurer in the manner required of other state funds by IC 5-13-~~ as authorized by the board.

~~(c) The board shall make quarterly reports to the auditor of state as required by law for the transference of the fund to the auditor of state's books.~~

~~(d)~~ (c) The board shall direct the fund's disbursements on itemized vouchers to the auditor of state approved by the president of the board and the director or, in the absence or incapacity of both officers, by another trustee directed by order of the board. ~~The auditor of state then shall issue a warrant on the treasurer of state.~~

SECTION 14. IC 5-10.4-3-14, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 14. All income and other receipts from securities may be:

(1) collected by the custodian bank or safekeeping bank approved for that purpose by the board and deposited in the custodial account or a checking account of the board;

(2) reinvested from the custodial account or checking account when the board determines that the receipts may be safely invested; or

(3) withdrawn by the board for the immediate needs of the fund

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from the checking account or custodial account. ~~and then deposited with the treasurer of state, as required for other money coming into the fund.~~

SECTION 15. IC 5-10.4-4-8, AS AMENDED BY P.L.201-2007, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 8. (a) This subsection applies to a member who retires before July 1, 1980. A member who had completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to credit for that service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if before or during the leave of absence the member pays into the fund the member's contributions. Time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter.

(b) This subsection applies to a member who retires after June 30, 1980. A member who completed four (4) years of approved college teacher education before voluntary or involuntary induction into military service is entitled to credit for the member's active military service as if the member had begun teaching before the induction. A member who serves in military service is considered a teacher and is entitled to the benefits of the fund if the following conditions are met:

- (1) The member has an honorable discharge.
- (2) Except as provided in subsection ~~(e)~~, (g), the member returns to active teaching service not later than twenty-four (24) months after the completion of active military service.
- (3) The member has at least ten (10) years of in-state service credit.

The time served by a member in military service for the duration of the hostilities or for the length of active service in the hostilities and the necessary demobilization time after the hostilities is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(c) This subsection applies to a member who retires after May 1, 1989. A member who had begun but had not completed four (4) years of approved college teacher education before voluntary or involuntary induction into the military services is entitled to service credit in an amount equal to the duration of the member's active military service if the following conditions are met:

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- (1) The member has an honorable discharge.
- (2) Except as provided in subsection ~~(c)~~; **(g)**, the member returns to a four (4) year approved college teacher training program not later than twenty-four (24) months after the completion of active military service and subsequently completes that program.
- (3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

(d) This subsection applies to a member who retires after May 1, 1991, and who is employed at a state educational institution. A member who had begun but had not completed baccalaureate or post-baccalaureate education before voluntary or involuntary induction into military service is entitled to the member's active military service credit for the member's active military service in an amount equal to the duration of the member's military service if the following conditions are met:

- (1) The member received an honorable discharge.
- (2) Except as provided in subsection ~~(c)~~; **(g)**, the member returns to baccalaureate or post-baccalaureate education not later than twenty-four (24) months after completion of active military service and subsequently completes that education.
- (3) The member has at least ten (10) years of in-state service credit.

The time served by a member in active military service for the length of active service in the hostilities and the necessary demobilization is not subject to the one-seventh rule set forth in section 7 of this chapter. However, not more than six (6) years of military service credit may be granted under this subsection.

**(e) For purposes of this section, a member returns to active teaching service on the earlier of:**

- (1) the date on which the member signs a teacher's contract;**  
**or**
- (2) the date on which the member is first employed in a position covered by this article.**

**(f) For purposes of this section, a member returns to:**

- (1) a teacher training program; or**
  - (2) baccalaureate or post-baccalaureate education;**
- on the date the member registers for or enrolls in classes that the**

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**member attends.**

~~(e)~~ (g) The board shall extend the twenty-four (24) month deadline contained in subsection (b)(2), (c)(2), or (d)(2) if the board determines that an illness, an injury, or a disability related to the member's military service prevented the member from returning to active teaching service or to a teacher education program not later than twenty-four (24) months after the member's discharge from military service. However, the board may not extend the deadline beyond forty-eight (48) months after the member's discharge.

~~(f)~~ (h) If a member retires and the board subsequently determines that the member is entitled to additional service credit due to the extension of a deadline under subsection ~~(e)~~; (g), the board shall recompute the member's benefit. However, the additional service credit may be used only in the computation of benefits to be paid after the date of the board's determination, and the member is not entitled to a recomputation of benefits received before the date of the board's determination.

~~(g)~~ (i) Notwithstanding any provision of this section, a member is entitled to military service credit and benefits in the amount and to the extent required by the federal Uniformed Services Employment and Reemployment Rights Act (38 U.S.C. 4301 et seq.), including all later amendments.

~~(h)~~ (j) Subject to this section, an active member may purchase not more than two (2) years of service credit for the member's service on active duty in the armed services if the member meets the following conditions:

- (1) The member has at least one (1) year of credited service in the fund.
- (2) The member serves on active duty in the armed services of the United States for at least six (6) months.
- (3) The member receives an honorable discharge from the armed services.
- (4) Before the member retires, the member makes contributions to the fund as follows:
  - (A) Contributions that are equal to the product of:
    - (i) the member's salary at the time the member actually makes a contribution for the service credit;
    - (ii) a rate, determined by the actuary of the fund, that is based on the age of the member at the time the member actually makes a contribution for service credit and computed to result in a contribution amount that approximates the actuarial present value of the benefit

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attributable to the service credit purchased; and

(iii) the number of years of service credit the member intends to purchase.

(B) Contributions for any accrued interest, at a rate determined by the actuary of the fund, for the period from the member's initial membership in the fund to the date payment is made by the member.

However, a member is entitled to purchase service credit under this subsection only to the extent that service credit is not granted for that time under another provision of this section. At least ten (10) years of service in Indiana is required before a member may receive a benefit based on service credits purchased under this section. A member who terminates employment before satisfying the eligibility requirements necessary to receive a monthly allowance or receives a monthly allowance for the same service from another tax supported public employee retirement plan other than under the federal Social Security Act may withdraw the purchase amount plus accumulated interest after submitting a properly completed application for a refund to the fund.

~~(j)~~ **(k)** The following apply to the purchase of service credit under subsection ~~(h)~~: **(j)**:

(1) The board may allow a member to make periodic payments of the contributions required for the purchase of the service credit. The board shall determine the length of the period during which the payments must be made.

(2) The board may deny an application for the purchase of service credit if the purchase would exceed the limitations under Section 415 of the Internal Revenue Code.

(3) A member may not claim the service credit for purposes of determining eligibility or computing benefits unless the member has made all payments required for the purchase of the service credit.

~~(j)~~ **(l)** This subsection applies to a member who retires after June 30, 2006. A member may not receive credit under this section for service for which the member receives service credit under the terms of a military or another governmental retirement plan.

SECTION 16. IC 5-10.4-4-10, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a)** The director shall obtain a designation of beneficiary as soon as possible from each member.

**(b) Notwithstanding a contrary collateral agreement, court order, process, attachment, or levy, the right to receive a death benefit under IC 5-10.2 or this article vests with the designated**

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**beneficiary on file with the fund at the time of the member's death. The fund shall distribute the death benefit to the designated beneficiary or the designated beneficiary's estate in accordance with IC 5-10.2 and this article.**

SECTION 17. IC 5-10.4-5-9, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 9. (a) The fund shall make a member's first pension benefit payment not more than ninety (90) days after the date the member completes and files an application for retirement benefits.

(b) After the first pension benefit payment **and except as provided under IC 5-10.2-4-7(f)**, a person entitled to benefits shall receive a retirement benefit payment by the tenth day of each month.

SECTION 18. IC 5-10.4-5-13, AS AMENDED BY P.L.76-2008, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 13. ~~(a) IC 5-10.2-4-8 IC 5-10.2-4-9; and IC 5-10.2-4-10~~ **applies** to the reemployment of a retired member.

(b) ~~This subsection does not apply to a member who is reemployed more than thirty (30) days after the member's retirement in a position covered by the fund. For a retired member who withdraws from retirement status, resumes teaching, and again retires, the board shall pay the member, after the member's second or subsequent retirement, a monthly retirement benefit at least equal to the highest amount the retired member has received as a retirement benefit.~~

SECTION 19. IC 5-10.4-6-2, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 2. (a) After July 9, 1949, a member receiving a retirement benefit under Acts 1915, c.182, or any statute amendatory of or supplemental to it enacted before January 1, 1949, is eligible, subject to Acts 1949, c.130, s.2(j), to receive a retirement benefit approximately equal to the state's proportionate share of a retirement benefit provided by Acts 1949, c.130 for up to thirty (30) years of service. These members shall make written application for these benefits to the board at any time. Applications must be based on the service record established in the office of the fund on April 1, 1949. **Except as provided under IC 5-10.2-4-7(f)**, this retirement benefit must begin on the tenth of the month following acknowledgment of the application.

(b) The board shall establish, with the advice of the fund's actuary, a simplified table for computing the increases under this section for the years of service. The board may provide by resolution for participation by the members receiving benefits under this section in the additional annuity fund.



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(c) Within a reasonable time, the board shall issue to each member of the fund a service certificate that includes the following:

- (1) The member's name.
- (2) The member's last known address.
- (3) The member's account number.
- (4) The law under which the member is participating in the fund.
- (5) The contribution due from the member.
- (6) A certification of the total years of creditable service that the member has as of a date fixed by the board.

(d) The service certificate described in subsection (c) is final and conclusive regarding service in the fund. However, a member may, not later than one (1) year from the issuance or notification of the certificate, request that the board modify the member's service certificate.

SECTION 20. IC 5-10.4-7-10, AS ADDED BY P.L.2-2006, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2009]: Sec. 10. **(a) Except as provided in subsection (b), the board shall maintain separate reserve accounts within the 1996 account for each school corporation.**

**(b) If the board sets a group employer rate under IC 5-10.2-2-11(b), the board shall maintain separate reserve accounts within the 1996 account for each employer group.**

**(c) Credits and charges to these accounts must be made as prescribed in IC 5-10.2-2.**

SECTION 21. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2009]: IC 5-10.3-4-1; IC 5-10.3-4-2; IC 5-10.3-9-5.

SECTION 22. [EFFECTIVE JULY 1, 2009] **(a) As used in this SECTION, "fund" refers to the public employees' retirement fund established by IC 5-10.3-2-1.**

**(b) Not later than October 1, 2009, the fund shall pay the amount determined under subsection (c) to a member of the fund (or to a survivor or beneficiary of a member) who retired or was disabled before January 1, 2009, and who is entitled to receive a monthly benefit on July 1, 2009. The amount is not an increase in the pension portion of the monthly benefit.**

**(c) The amount paid under this SECTION to a member of the fund (or to a survivor or beneficiary of a member) who meets the requirements of subsection (b) is determined as follows:**

<b>If a Member's</b>	<b>The Amount Is:</b>
<b>Creditable Service Is:</b>	
<b>At least 5 years, but less than 10 years</b>	<b>\$150</b>
<b>(only in the case of a member receiving</b>	

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**disability retirement benefits)****At least 10 years, but less than 20 years      \$275****At least 20 years, but less than 30 years      \$375****At least 30 years      \$450**

**(d) The creditable service used to determine the amount paid to a member (or to a survivor or beneficiary of the member) under this SECTION is the creditable service that was used to compute the member's retirement benefit under IC 5-10.2-4-4 except that partial years of creditable service may not be used to determine the amount paid under this SECTION.**

**(e) This SECTION expires January 1, 2010.**

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Speaker of the House of Representatives

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President of the Senate

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President Pro Tempore

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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